

time, with retired pay at the rate of 75 per centum of their active-duty pay.

(g) Whenever there are insufficient general officers available to comprise a selection board for the recommendation of officers for promotion to the grades of brigadier general and colonel without placing thereon general officers who served as members of the same corresponding board the preceding year, except the Commanding General, Fleet Marine Force, line officers of the Navy of the grade of rear admiral of the line may be substituted for general officers of the Marine Corps in order to comply with the provisions of section 5 (c) of this Act.

Marine Corps selection boards; substitution of naval officers in certain cases.

#### MISCELLANEOUS PROVISIONS

SEC. 16. (a) The provisions of this Act shall not apply to officers of the Staff Corps of the Navy.

Miscellaneous provisions.

(b) The Secretary of the Navy shall prescribe regulations whereby a uniform system of establishing a record of the efficiency of officers may be employed throughout the Navy.

#### REPEAL PROVISIONS

SEC. 17. All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed, and the provisions of this Act shall be in effect in lieu thereof.

Repeal provisions.

Approved, June 23, 1938.

#### [CHAPTER 599]

##### AN ACT

To amend the Perishable Agricultural Commodities Act, 1930, as amended.

June 23, 1938

[H. R. 10785]

[Public, No. 704]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 7 (a) of the Perishable Agricultural Commodities Act, 1930, as amended, is further amended by changing the semicolon at the end thereof to a period and adding the following language: "If, after the respondent has filed his answer to the complaint, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum;"

Perishable Agricultural Commodities Act, 1930, amendment.

50 Stat. 728.

7 U. S. C., Supp. III, § 499g.

Reparation order directing immediate payment of undisputed amount to complainant.

Determination of remaining disputed amount.

Approved, June 23, 1938.

#### [CHAPTER 600]

##### AN ACT

To amend the Merchant Marine Act, 1936, to further promote the merchant marine policy therein declared, and for other purposes.

June 23, 1938

[H. R. 10315]

[Public, No. 705]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 202 of the Merchant Marine Act, 1936, is amended by adding at the end thereof a new sentence to read as follows: "The Commission may, upon such terms and conditions as it may prescribe in accordance

Merchant Marine Act, 1936, amendments.

49 Stat. 1986; 50 Stat. 839.

46 U. S. C., Supp. III, § 1112.

Extensions and renewals of notes and other evidences of indebtedness.

49 Stat. 1983.

Contracts authorized for carrying out authorized activities, etc.

Audit of financial transactions.  
42 Stat. 444.

*Proviso.*  
Allowance of credit for all necessary expenditures.

Report of departures to Congress.

49 Stat. 1991.

Investigations; authority to secure testimony, etc.

Witness fees and mileage.

49 Stat. 1991.

Vessels for foreign commerce, purchase, etc.

49 Stat. 1989.  
46 U. S. C., Supp. II, § 1121.  
*Proviso.*  
Basis of price.

Suitability requirement.

Documentation of vessels.

with sound business practice, make such extensions and accept such renewals of the notes and other evidences of indebtedness hereby transferred, and of the mortgages and other contracts securing the same, as it may deem necessary to carry out the objects of this Act."

SEC. 2. Section 207 of such Act is amended to read as follows:

"SEC. 207. The Commission may enter into such contracts, upon behalf of the United States, and may make such disbursements as may, in its discretion, be necessary to carry on the activities authorized by this Act, or to protect, preserve, or improve the collateral held by the Commission to secure indebtedness, in the same manner that a private corporation may contract within the scope of the authority conferred by its charter. All the Commission's financial transactions shall be audited in the General Accounting Office according to approved commercial practice as provided in the Act of March 20, 1922 (42 Stat. 444): *Provided*, That it shall be recognized that, because of the business activities authorized by this Act, the accounting officers shall allow credit for all expenditures shown to be necessary because of the nature of such authorized activities, notwithstanding any existing statutory provision to the contrary. The Comptroller General shall report annually or oftener to Congress any departure by the Commission from the provisions of this Act."

SEC. 3. Section 214 (a) of such Act is amended to read as follows:

"SEC. 214. (a) For the purpose of any investigation which, in the opinion of the Commission, is necessary and proper in carrying out the provisions of this Act, any member of the Commission, or any officer or employee thereof designated by it, is empowered to subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of any books, papers, or other documents which are relevant or material to the matter under investigation. Such attendance of witnesses and the production of such books, papers, or other documents may be required from any place in the United States or any Territory, district, or possession thereof at any designated place of hearing. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States."

SEC. 4. Title II of such Act is amended by adding at the end thereof a new section to read as follows:

"SEC. 215. The Commission is authorized to acquire by purchase or otherwise such vessels constructed in the United States as it may deem necessary to establish, maintain, improve, or effect replacements upon any service, route, or line in the foreign commerce of the United States determined to be essential under section 211 of this Act, and to pay for the same out of its construction fund: *Provided*, That the price paid therefor shall be based upon a fair and reasonable valuation, but it shall not exceed by more than 5 per centum the cost of such vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Commission) plus the actual cost previously expended thereon for reconditioning less depreciation based upon a twenty-year life expectancy of the vessel. No such vessel shall be acquired by the Commission unless the Secretary of the Navy has certified to the Commission that such vessel is suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States in time of war or national emergency. Every vessel acquired under authority of this section that is not documented under the laws of the United States at the time of its acquisition shall be so documented as soon as practicable."

SEC. 5. Section 301 (a) of such Act is amended to read as follows:

"SEC. 301. (a) The Commission is authorized and directed to investigate the employment and wage conditions in ocean-going shipping and, after making such investigation and after appropriate hearings, to incorporate in the contracts authorized under titles VI and VII of this Act minimum manning scales and minimum wage scales, and minimum working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy. After such minimum manning and wage scales, and working conditions shall have been adopted by the Commission, no change shall be made therein by the Commission except upon public notice of the hearing to be had, and a hearing by the Commission of all interested parties, under such rules as the Commission shall prescribe. The duly elected representatives of the organizations certified as the proper collective bargaining agencies shall have the right to represent the employees who are members of their organizations at any such hearings. Every contractor receiving an operating-differential subsidy shall post and keep posted in a conspicuous place on each such vessel operated by such contractor a printed copy of the minimum manning and wage scales, and working conditions prescribed by his contract and applicable to such vessel: *Provided, however,* That any increase in the operating expenses of the subsidized vessel occasioned by any change in the wage or manning scales or working conditions as provided in this section shall be added to the operating-differential subsidy previously authorized for the vessel."

SEC. 6. Section 301 (b) of such Act is amended to read as follows:

"(b) Every contract executed under authority of titles VI and VII of this Act shall require—

"(1) Insofar as is practicable, officers' living quarters shall be kept separate and apart from those furnished for members of the crew;

"(2) Licensed officers and unlicensed members of the crew shall be entitled to make complaints or recommendations to the Commission providing they file such complaint or recommendation directly with the Commission, or with their immediate superior officer who shall be required to forward such complaint or recommendation with his remarks to the Commission, or with the authorized representatives of the respective collective bargaining agencies;

"(3) Licensed officers who are members of the United States Naval Reserve shall wear on their uniforms such special distinguishing insignia as may be approved by the Secretary of the Navy; officers being those men serving under licenses issued by the Bureau of Marine Inspection and Navigation;

"(4) The uniform stripes, decoration, or other insignia shall be of gold braid or woven gold or silver material, to be worn by officers, and no member of the ship's crew other than licensed officers shall be allowed to wear any uniform with such officer's identifying insignia;

"(5) No discrimination shall be practiced against licensed officers, who are otherwise qualified, because of their failure to qualify as members of the United States Naval Reserve."

SEC. 7. Section 402 (b) and section 402 (c) of such Act are amended by striking out the quotation marks.

SEC. 8. Section 501 (c) of such Act is amended by striking out the term "section 201 (c)" and inserting in lieu thereof the term "section 204 (b)".

SEC. 9. The second sentence of section 502 (a) of such Act is amended by striking out the words "the cost of the vessel" and inserting in lieu thereof the words "of the contract price of the vessel".

49 Stat. 1992.  
American seamen.  
Investigation of employment and wage conditions.  
Incorporation of minimum manning and wage scales in contracts.

Working conditions.

Hearings prior to change.

Collective bargaining agencies, representation.

Posting of copy of scales, etc.

*Proviso.*  
Increased expense to be added to operating-differential subsidy.

49 Stat. 1992.

Contract requirements.

Quarters.

Complaints or recommendations.

Special distinguishing insignia, licensed officers, members of Naval Reserve.

Description; restriction.

No discrimination against licensed officers failing to qualify.

Textual changes.  
49 Stat. 1994.

49 Stat. 1995.

49 Stat. 1996.  
46 U. S. C., Supp. III, § 1152.

49 Stat. 1996.  
Construction-differ-  
ential subsidy.

Limitation.

49 Stat. 1985.  
46 U. S. C., Supp.  
III, § 1111.

Collusive bidding.

49 Stat. 1996.  
Terms of sale of  
vessel to applicant.  
Cash payments.

Interest.

Balance of purchase  
price; installments.

Interest.

SEC. 10. Section 502 (b) of such Act is amended to read as follows:  
“(b) The amount of the reduction in selling price which is herein termed the ‘construction-differential subsidy’ may equal, but not exceed, the excess of the bid of the shipbuilder constructing the proposed vessel (excluding the cost of any features incorporated in the vessel for national-defense uses, which shall be paid by the Commission in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Commission, of the construction of the proposed vessel if it were constructed under similar plans and specifications (excluding national-defense features as above provided) in a principal foreign shipbuilding center which may reasonably be availed of by the principal foreign competitors in the service in which the vessel is to be operated, and which is deemed by the Commission to furnish a fair and representative example for the determination of the estimated cost of construction in foreign countries of vessels of the type proposed to be constructed. The construction differential approved by the Commission shall not exceed 33⅓ per centum of the construction cost of the vessel paid by the Commission (excluding the cost of national-defense features as above provided), except that in cases where the Commission possesses convincing evidence that the actual differential is greater than that percentage, the Commission may approve an allowance not to exceed 50 per centum of such cost, upon the affirmative vote of four members, except as otherwise provided in subsection 201 (a). In any case where the Commission finds that the construction differential exceeds 33⅓ per centum of such cost and that the lowest bid of a responsible domestic shipbuilder is unreasonable, excessive, or collusive, the Commission may negotiate and contract with the view to construction in a domestic shipyard that is not unreasonable or excessive in cost or collusive in character. Where the Commission finds that the construction differential exceeds 50 per centum of such cost, the Commission may negotiate and contract on behalf of the applicant to build such vessel in a domestic shipyard at a cost which will reduce the construction differential to 50 per centum or less. In the event that the Commission have reason to believe that the bidding in any instance is collusive, it shall report all of the evidence on which the Commission acted (1) to the Attorney General of the United States, and (2) to the President of the Senate and to the Speaker of the House of Representatives if the Congress shall be in session or if the Congress shall not be in session, then to the Clerk of the Senate and the Clerk of the House respectively.”

SEC. 11. Section 502 (c) of such Act is amended to read as follows:  
“(c) In such contract between the applicant and the Commission, the applicant shall be required to make cash payments to the Commission of not less than 25 per centum of the price at which the vessel is sold to the applicant. The cash payments shall be made at the time and in the same proportion as provided for the payments on account of the construction cost in the contract between the shipbuilder and the Commission. The applicant shall pay, not less frequently than annually, interest at the rate of 3½ per centum per annum on those portions of the Commission’s payments as made to the shipbuilder which are chargeable to the applicant’s purchase price of the vessel (after deduction of the applicant’s cash payments). The balance of such purchase price shall be paid by the applicant, within twenty years after delivery of the vessel and in not to exceed twenty equal annual installments, the first of which shall be payable one year after the delivery of the vessel by the Commission to the applicant. Interest at the rate of 3½ per centum per annum shall be paid on all such installments of the purchase price remaining unpaid.”

SEC. 12. Section 502 (d) of such Act is amended (a) by striking out "construction subsidy" and inserting in lieu thereof "construction-differential subsidy", and (b) by adding at the end thereof a new sentence to read as follows: "Nothing in this section shall be construed as authorizing the Commission to approve a construction-differential in excess of 50 per centum of the construction cost of the vessel paid by the Commission."

SEC. 13. Section 502 of such Act is amended by adding at the end thereof a new subsection to read as follows:

"(f) If at any time the Commission shall find that the existing ship yards, including the navy yards, do not provide adequate facilities to meet necessary requirements for purposes of national defense and national emergency, with special regard to providing facilities for the national defense at strategic points, the Commission, after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all ship yards, may, with the approval of the President, allocate construction work under this title and under title VII to such yards in such manner as it may determine to be fair, just, and reasonable to all sections of the country, subject to the provisions of this subsection. In the allocation of construction work to such yards as herein provided, the Commission may, after first obtaining competitive bids for such work in compliance with the provisions of this Act, negotiate with the bidders and with other shipbuilders concerning the terms and conditions of any contract for such work, and is authorized to enter into such contract at a price deemed by the Commission to be fair and reasonable. Any contract entered into by the Commission under the provisions of this subsection shall be subject to all of the terms and conditions of this Act, excepting those pertaining to the awarding of contracts to the lowest bidder which are inconsistent with the provisions of this subsection. In the event that a contract is made providing for a price in excess of the lowest responsible bid which otherwise would be accepted, such excess shall be paid by the Commission as a part of the cost of national defense, and shall not be considered as a part of the construction-differential subsidy. In the event that a contract is made providing for a price lower than the lowest responsible bid which otherwise would be accepted, the construction-differential subsidy shall be computed on the contract price in lieu of such bid."

SEC. 14. Section 502 of such Act is amended by adding at the end thereof a new subsection to read as follows:

"(g) Upon the agreement of an applicant under this title to purchase any vessel acquired by the Commission under the provisions of section 215, the Commission is authorized to sell such vessel to the applicant for the fair and reasonable value thereof, but at not less than the cost thereof to the Commission, less depreciation based on a twenty-year life expectancy from the date of completion, excluding the cost of national-defense features added by the Commission, less the equivalent of any applicable construction-differential subsidy as provided by subsection (b), such sale to be in accordance with all the provisions of this title. Such vessel shall thereupon be eligible for an operating-differential subsidy under title VI of this Act, notwithstanding the provisions of section 601 (a) (1), and section 610 (1), or any other provision of law."

SEC. 15. Section 503 of such Act is amended to read as follows:

"SEC. 503. Upon completion of the construction of any vessel in respect to which a construction-differential subsidy is to be allowed under this title and its delivery by the shipbuilder to the Commission, the vessel shall be documented under the laws of the United States,

Vessels constructed on Pacific Coast.  
49 Stat. 1997.

Construction-differential, limitation.

49 Stat. 1997.

Allocation of construction work.

49 Stat. 2008.  
46 U. S. C., Supp. III, §§ 1191-1204.

Competitive bids; terms and conditions of contracts.

Price in excess of lowest responsible bid.

Price lower than lowest responsible bid.

49 Stat. 1997.

Sale of vessels acquired by Commission.

*Ante*, p. 954.

49 Stat. 2001, 2007.

49 Stat. 1997.

Documentation of vessels.

Delivery.	and concurrently therewith, or as soon thereafter as practicable, the vessel shall be delivered with a bill of sale to the applicant with warranty against liens, pursuant to the contract of purchase between the applicant and the Commission. The vessel shall remain documented under the laws of the United States for not less than twenty years, or so long as there remains due the United States any principal or interest on account of the purchase price, which ever is the longer period. At the time of delivery of the vessel the applicant shall execute and deliver a first preferred mortgage to the United States to secure payment of any sums due from the applicant in respect to said vessel. The purchaser shall also comply with all the provisions of section 9 of the Merchant Marine Act, 1920."
Period of documentation.	
Mortgage to secure payments due.	
41 Stat. 992. 46 U. S. C. § 868.	
49 Stat. 1998.	
Financing construction by applicant in lieu of purchase.	SEC. 16. Section 504 of such Act is amended to read as follows:
Approval of bid, etc.	"SEC. 504. Where an eligible applicant under the terms of this title desires to finance the construction of a proposed vessel according to approved plans and specifications rather than purchase the same vessel from the Commission as hereinabove authorized, the Commission may permit the applicant to obtain and submit to it competitive bids from domestic shipyards for such work. If the Commission considers the bid of the shipyard in which the applicant desires to have the vessel built fair and reasonable, it may approve such bid and become a party to the contract or contracts or other arrangements for the construction of such proposed vessel and may agree to pay a construction-differential subsidy in an amount determined by the Commission in accordance with section 502 of this title, and for the cost of national-defense features. The construction-differential subsidy and payments for national-defense features shall be based on the lowest responsible domestic bid. No construction-differential subsidy, as provided in this section, shall be paid unless the said contract or contracts or other arrangements contain such provisions as are provided in this title to protect the interests of the United States as the Commission deems necessary. Such vessel shall be documented under the laws of the United States as provided in section 503 of this title and operated as approved by the Commission under the requirements applicable to vessels constructed under this Act."
<i>Ante</i> , p. 956. Subsidy, etc.	
Documentation. <i>Ante</i> , p. 957.	
Contracts for scientific equipment. 49 Stat. 1999. 46 U. S. C., Supp. III, § 1155 (b).	SEC. 17. The last proviso in section 505 (b) of such Act is amended to read as follows: "Provided, That this section shall not apply to contracts or subcontracts for scientific equipment used for communication and navigation as may be so designated by the Commission, nor to contracts or other arrangements entered into under this title by the terms of which the United States undertakes to pay only for national-defense features, and the Commission shall report annually <sup>1</sup> to Congress the names of such contractors and subcontractors affected by this provision, together with the applicable contracts and the amounts thereof."
Report to Congress.	
49 Stat. 1999.	
Operation of subsidy-constructed vessel exclusively in foreign trade, etc.	SEC. 18. Section 506 of such Act is amended to read as follows: "Section 506. Every owner of a vessel for which a construction-differential subsidy has been paid shall agree that the vessel shall be operated exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at an island possession or island territory of the United States, and that if the vessel is operated in the domestic trade

<sup>1</sup> So in original.

on any of the above-enumerated services, he will pay annually to the Commission that proportion of one-twentieth of the construction-differential subsidy paid for such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. The Commission may consent in writing to the temporary transfer of such vessel to service other than the service covered by such agreement for periods not exceeding six months in any year, whenever the Commission may determine that such transfer is necessary or appropriate to carry out the purposes of this Act. Such consent shall be conditioned upon the agreement by the owner to pay to the Commission, upon such terms and conditions as it may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Commission as such temporary period bears to the entire economic life of the vessel. No operating-differential subsidy shall be paid for the operation of such vessel for such temporary period."

SEC. 19. Section 507 of such Act is amended to read as follows:

"SEC. 507. If a contract is made by the Commission under authority of this title for the construction and sale of a new vessel to replace a vessel then operated in foreign trade, which in the judgment of the Commission should be replaced because it is obsolete or inadequate for successful operation in such trade, the Commission is authorized, in its discretion, to buy such replaced vessel from the owner at a fair and reasonable valuation, which valuation shall not exceed the cost to the owner or any former owner plus the actual cost previously expended thereon for reconditioning, and less a reasonable and proper depreciation, based upon not more than a twenty-year life of the vessel, and apply the purchase price agreed upon to that portion of the construction cost of such new vessel which is to be borne by the purchaser thereof: *Provided*, That the owner of such replaced vessel shall execute a bond, with one or more approved sureties, conditioned upon indemnifying the United States from all loss resulting from any existing lien against such vessel: *And provided further*, That such vessel has been documented under the laws of the United States for a period of at least ten years prior to the date of its purchase by the United States."

SEC. 20. The first sentence of section 509 of such Act, and so much of the second sentence thereof as precedes the first semicolon therein, are amended to read as follows: "Any citizen of the United States may make application to the Commission for aid in the construction of a new vessel to be operated in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively). If such application is approved by the Commission, the vessel may be constructed under the terms and conditions of this title, but no construction-differential subsidy shall be allowed, except as otherwise provided in this title. The Commission shall pay for the cost of national-defense features incorporated in such vessel. The applicant shall be required to pay the Commission not less than 25 per centum of the cost of such vessel (excluding cost of national-defense features)".

SEC. 21. Section 604 of such Act is amended to read as follows:

"SEC. 604. If in the case of any particular foreign-trade route the Commission shall by unanimous vote find after consultation with the Secretary of State, that the subsidy provided for in this title is in any respect inadequate to offset the effect of governmental aid paid to foreign competitors, it may grant such additional subsidy as it determines to be necessary for that purpose: *Provided*, That no such additional subsidy shall be granted except upon the unanimous affirmative vote of the members of the Commission."

Payment to Commission for deviations.

Temporary transfer.

49 Stat. 2000.

Construction of new vessel to replace obsolete vessel.

Purchase of replaced vessel by Commission.

Credit to construction cost of new vessel.

*Proviso.*  
Surety bond.

Documentation requirement.

49 Stat. 2000.  
Construction of new vessels.  
Application by citizen for aid in.

Terms and conditions.

First payment.

49 Stat. 2003.

Foreign trade routes, additional subsidy; when granted.

*Proviso.*  
Unanimous approval by Commission.

49 Stat. 2004.

Contract readjustments.  
Excess profits; recapture provision.

SEC. 22. Section 606 (5) of such Act is amended to read as follows: "(5) That when at the end of any ten-year period during which an operating-differential subsidy has been paid, or when prior to the end of any such ten-year period the contract shall be terminated, if the net profit of the contractor on his subsidized vessels and services incident thereto during such period or time (without regard to capital gains and capital losses), after deduction of depreciation charges based upon a twenty-year life expectancy of the subsidized vessels, has averaged more than 10 per centum per annum upon the contractor's capital investment necessarily employed in the operation of the subsidized vessels, services, routes, and lines, the contractor shall pay to the United States an amount equal to one-half of such profits in excess of 10 per centum per annum as partial or complete reimbursement for operating-differential subsidy payments received by the contractor for such ten-year period, but the amount of excessive profit so recaptured shall not in any case exceed the amount of the operating-differential-subsidy payments theretofore made to the contractor for such period under such contract and the repayment of such reimbursement to the Commission shall be subject to the provisions of section 607;".

49 Stat. 2005.  
Capital reserve fund.  
Deposit of proceeds of insurance, indemnities, etc., in.

SEC. 23. The last sentence of the first paragraph of section 607 (b) of such Act is amended to read as follows: "The proceeds of all insurance and indemnities received by the contractor on account of total loss of any subsidized vessel and the proceeds of any sale or other disposition of such vessel shall also be deposited in the capital reserve fund."

49 Stat. 2005.  
Payment from fund of sums owing but not due.

SEC. 24. Section 607 (b) of such Act is amended by adding at the end thereof a new sentence to read as follows: "The contractor may, with the consent of the Commission, pay from said fund any sums owing but not yet due on notes secured by mortgages on subsidized vessels."

49 Stat. 2006.

Special reserve fund.  
Excess profits, deposit and disbursements.

SEC. 25. The second paragraph of section 607 (c) of such Act is amended to read as follows:

"If the profits, without regard to capital gains and capital losses, earned by the business of the subsidized vessels and services incident thereto exceed 10 per centum per annum and exceed the percentage of profits deposited in the capital reserve fund, as provided in subsection (b) of this section, the contractor shall deposit annually such excess profits in this reserve fund. From the special reserve fund the contractor may make the following disbursements and no others:".

49 Stat. 2006.

Reimbursement to general funds for current operating losses.

SEC. 26. Section 607 (c) (2) of such Act is amended to read as follows:

"(2) Reimbursement to the contractor's general funds for current operating losses on completed voyages of subsidized vessels whenever the Commission shall determine it is improbable that such current losses will be made up by profits on other voyages during the current year;".

49 Stat. 2007.

Disposition of required reserve funds upon termination of contract.

SEC. 27. Section 607 of such Act is amended by inserting after subsection (e) two new subsections to read as follows:

"(f) Unless otherwise provided in the operating-differential subsidy contract, upon the termination of any such contract, the reserve funds required under this Act shall be the property of the contractor, except for such amounts as may be due the United States.

Voluntary increases in reserve funds.

"(g) With the approval of the Commission, the contractor may voluntarily increase the amount of either or both reserve funds by depositing in such fund or funds any or all of the earnings otherwise available for distribution to stockholders, or may transfer funds from the special reserve funds to the capital reserve fund."



SEC. 28. Section 607 (f) of such Act is amended to read as follows:

"(h) The earnings of any contractor receiving an operating-differential subsidy under authority of this Act, which are deposited in the contractor's reserve funds as provided in this section, except earnings withdrawn from the special reserve funds and paid into the contractor's general funds or distributed as dividends or bonuses as provided in paragraph 4 of subsection (c) of this section, shall be exempt from all Federal taxes. Earnings withdrawn from such special reserve fund shall be taxable as if earned during the year of withdrawal from such fund."

SEC. 29. Section 609 (b) of such Act is hereby repealed. Section 609 (a) of such Act is amended by striking out "(a)".

SEC. 30. Title VI of such Act is amended by adding at the end thereof new sections to read as follows:

"SEC. 611. (a) The contractor, upon compliance with the provisions of this section, may transfer to foreign registry the vessels covered by any operating-differential subsidy contract held by him, in the event that the United States defaults upon such contract or cancels it without just cause. Any contractor desiring to transfer any such vessel to foreign registry upon such default or cancelation shall file an application in writing with the Commission setting forth its contentions with respect to the lack of just cause or lawful grounds for such default or cancelation. The Commission shall afford the contractor an opportunity for a hearing within twenty days after such contractor files written application therefor, and after the testimony, if any, in such hearing has been reduced to writing and filed with the Commission, it shall, within a reasonable time, grant or deny the application by order.

"(b) If any such application is denied, the contractor may obtain a review of the order of denial in the United States Court of Appeals for the District of Columbia, by filing in such court, within twenty days after the entry of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon any member of the Commission, or upon any officer thereof designated by the Commission for that purpose, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to determine whether such cancelation or default was without just cause, and to affirm or set aside such order. The judgment and decree of the court affirming or setting aside any such order of the Commission shall be final.

"(c) No transfer of vessels to foreign registry under this section shall become effective until any indebtedness to the Government or to any citizen of the United States, secured by such vessels, has been paid or discharged, and until after the expiration of ninety days from the date of final determination of the application or the appeal, if any. Within such ninety-day period the Commission may (1) with the consent of the contractor purchase the vessels at cost to the contractor plus cost of capital improvements thereon, less 5 per centum annual depreciation upon such vessel, and the actual depreciated costs of capital improvements thereon, or (2) reinstate the contract and adjust or settle the default found by the Commission or the court to exist.

"SEC. 612. The Commission is authorized to subordinate its interest as mortgagee in any vessel subsidized under the provisions of this title in favor of any loan for working capital made by the Reconstruction Finance Corporation under the Reconstruction Finance Corporation Act, as amended, if the Commission finds that the making of such

49 Stat. 2007.  
Tax exemptions.

Exceptions.

49 Stat. 2007.  
Textual changes.

49 Stat. 2008.

Transfers to foreign  
registry, when per-  
mitted.

Application.

Hearings.

Review of adverse  
decision.

Service of petition.

Court jurisdiction.

Finality of judg-  
ment and decree.

Payment of in-  
debtedness due upon  
transfer.

Purchase of vessels  
by Commission; rein-  
statement of contract,  
etc.

Loans for working  
capital; subordination  
of Commission's in-  
terest, under specified  
conditions.

47 Stat. 5.  
15 U. S. C. §§ 601-617;  
Supp. III, ch. 14.

*Proviso.*  
Transfer of obligations.

49 Stat. 2009.

Payment of operating-differential subsidies to charterers.

49 Stat. 2011.

Essential trade routes, finding by Commission of inability to develop, etc., under private operation.

Construction of vessels and demise under bare-boat charter.

Option to purchase.

Interest rate.

Deferred payments, limitation.

49 Stat. 2011.

Contract provisions.

Purchase or requisition of vessels, etc., on which subsidy paid.

Amount of payment to owner.

Computation of depreciated value.

loan by the Reconstruction Finance Corporation would be in furtherance of the policies of this Act or would, in its opinion, preserve or protect its mortgage interest in said subsidized vessel: *Provided*, That the obligations evidencing such loans by the Reconstruction Finance Corporation shall not be transferred, except to some other governmental agency."

SEC. 31. Section 708 of such Act is amended to read as follows:

"SEC. 708. The Commission may, if in its discretion financial aid is deemed necessary, enter into a contract with any charterer of its vessels for payment to such charterer of an operating-differential subsidy upon the same terms and conditions and subject to the same limitations and restrictions, where applicable, as are elsewhere provided in this Act with respect to payments of such subsidies to operators of privately owned vessels."

SEC. 32. Section 714 of such Act is amended to read as follows:

"SEC. 714. If the Commission shall find that any trade route (determined by the Commission to be an essential trade route as provided in section 211 of this Act) cannot be successfully developed and maintained and the Commission's replacement program cannot be achieved under private operation of such trade route by a citizen of the United States with vessels registered under the laws thereof, without further Government aid in addition to the financial aids authorized under titles V and VI of this Act, the Commission is authorized to have constructed, in private shipyards or in navy yards, the vessel or vessels of the types deemed necessary for such trade route, and to demise such new vessel or vessels on bare-boat charter to the American-flag operator established on such trade route, without advertisement or competition, upon an annual charter hire of not less than 5 per centum of the construction cost of such new vessel or vessels. Such charter may contain an option to the charterer to purchase such vessel or vessels from the Commission, within five years after the execution of the charter, upon the same terms and conditions as are provided in title V for the purchase of new vessels from the Commission and upon the agreement of the purchaser to pay interest at the rate of  $3\frac{1}{2}$  per centum per annum upon all unpaid portions of the purchase price from the date of the delivery of the vessel to the purchaser under the charter agreement with credit on the purchase price for all charter hire theretofore paid by the purchaser on account of such charter. If the option to purchase is exercised, the deferred payments of the purchase price shall not be extended beyond the life of the vessel computed on a twenty-year expectancy."

SEC. 33. Section 802 of such Act is amended to read as follows:

"SEC. 802. Every contract executed by the Commission under authority of title V of this Act shall provide that—

"In the event the United States shall, through purchase or requisition, acquire ownership of the vessel or vessels on which a construction-differential subsidy was paid, the owner shall be paid therefor the fair actual value thereof, but in no event shall such payment exceed the actual depreciated construction cost thereof (together with the actual depreciated cost of capital improvements thereon, but excluding the cost of national-defense features) less the depreciated amount of construction-differential subsidy theretofore paid incident to the construction or reconditioning of such vessel or vessels, or the fair and reasonable scrap value of such vessel as determined by the Commission, whichever is the greater. Such determination shall be final. In computing the depreciated value of such vessel, depreciation shall be computed on each vessel on the schedule adopted by the Bureau of Internal Revenue for income-tax purposes.

"The foregoing provision respecting the requisition or the acquisition of ownership by the United States shall run with the title to such vessel or vessels and be binding on all owners thereof."

SEC. 34. Section 803 of such Act is amended by striking out the provisos and the colon following the word "services", and inserting in lieu thereof a comma and the following: "except that the Commission, by a vote of four members (except as provided in section 201 (a)) may grant an exemption in writing from the provisions of this section, upon such terms and conditions and for such specific period of time as the Commission deems necessary or appropriate to carry out the policy of this Act, in any case where—

"(a) The Commission finds that the enforcement of such provisions is not necessary to safeguard the economical and fair application of subsidies paid the contractor under this Act, and that such exemption will promote economy or efficiency of service by the merchant marine; and

"(b) The person performing the services or supplying the facilities agrees to account for and pay over to the contractor any and all profits resulting from performing such services or supplying such facilities."

SEC. 35. The proviso in section 804 of such Act is amended to read as follows: "Provided, however, That under special circumstances and for good cause shown the Commission may, in its discretion, waive the provisions of this section as to any contractor, for a specific period of time, by affirmative vote of four of its members, except as otherwise provided in section 201 (a)."

SEC. 36. (a) Section 805 (b) of such Act is amended by inserting a period after the word "contractor" at the end thereof.

(b) Section 805 (c) of such Act is amended by striking out "no director" and inserting in lieu thereof "No director".

SEC. 37. The last sentence of section 805 (d) of such Act is amended to read as follows: "No contractor shall receive an operating-differential subsidy for the operation of any chartered vessel save and except during a period of actual emergency determined by the Commission, or except as provided in section 708."

SEC. 38. Section 807 of such Act is amended to read as follows:

"SEC. 807. It shall be unlawful for any person employed or retained by any shipbuilder or ship operator holding or applying for a contract under the provisions of this Act, or employed or retained by any subsidiary, affiliate, associate, or holding company of such shipbuilder or ship operator, to present, advocate, or oppose any matter within the scope of the Shipping Act, 1916, as amended, the Merchant Marine Act, 1920, as amended, the Merchant Marine Act, 1928, as amended, the Intercoastal Shipping Act, 1933, or this Act, before the Congress or any committee thereof, or before the Commission, unless such shipbuilder or ship operator shall have previously filed with the Commission in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file with the Commission within thirty days after the close of each calendar month during such retainer or employment, in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest, a statement of the expenses

Provision to run with vessel title.

49 Stat. 2012.  
Restriction on employment of concern, etc., in which contractor financially interested.

Exemptions.  
49 Stat. 1985.

Where enforcement unnecessary.

Accounting and payment of all profits, etc.

49 Stat. 2012.  
Waiver permitted; affirmative vote of four members of Commission.  
Exception.

49 Stat. 1985.  
49 Stat. 2013.  
Textual amendments.

49 Stat. 2013.  
Chartered vessels, receipt of subsidy by contractor; limitation.

49 Stat. 2014.  
Lobbying activities.

30 Stat. 728; 41 Stat. 988; 45 Stat. 680; 47 Stat. 1425; 49 Stat. 1985.  
46 U. S. C. §§ 801, 861, 891, 843; Supp. III, § 1101; chs. 23, 24, 24A, 23A.

Statement of subject matter for which person employed.

Statement of expenses, etc.

Penalty for violation.

49 Stat. 2016.

Definitions.  
"Foreign commerce" or "foreign trade."

"Citizen of the United States", definition extended.

49 Stat. 1998.

Textual corrections.

49 Stat. 2002.

49 Stat. 1987.

39 Stat. 730.

46 U. S. C. § 808.

Restriction on unauthorized transfer to foreign registry.  
*Ante*, p. 961.

Penalty for violation.

47 Stat. 1426.  
46 U. S. C. § 845;  
Supp. III, § 845.  
Common carriers by water.

Adjustment of unreasonable rates.

*Proviso.*  
Great Lakes, exemption from minimum-rate provision.

Provisions extended.

39 Stat. 728.

46 U. S. C. § 801.

Textual correction.

47 Stat. 1427.

incurred and the compensation received by such person during such month in connection with such retainer or employment. Whosoever shall violate this provision shall be guilty of a misdemeanor."

SEC. 39. (a) Section 905 (a) of such Act is amended to read as follows:

"(a) The words 'foreign commerce' or 'foreign trade' mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country."

(b) Section 905 (c) of such Act is amended by inserting before the period a comma and the following: "and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum".

SEC. 40. (a) Section 505 (a) of such Act is amended by striking out "subsidy is allowed" and inserting in lieu thereof "construction-differential subsidy is allowed".

(b) Section 602 of such Act is amended by striking out "operating subsidy" and inserting in lieu thereof "operating-differential subsidy".

SEC. 41. Section 204 (b) of such Act is amended by striking out the last sentence thereof.

SEC. 42. Section 9 of the Shipping Act, 1916, as amended, is amended by striking out paragraphs 3 and 4 and inserting in lieu thereof the following:

"Except as provided in section 611 of the Merchant Marine Act, 1936, as amended, it shall be unlawful, without the approval of the United States Maritime Commission, to sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, or transfer or place under foreign registry or flag, any vessel or any interest therein owned in whole or in part by a citizen of the United States and documented under the laws of the United States, or the last documentation of which was under the laws of the United States.

"Any such vessel, or any interest therein, chartered, sold, transferred, or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both."

SEC. 43. (a) The Intercoastal Shipping Act, 1933, is amended by inserting after section 3 thereof two new sections, to read as follows:

"SEC. 4. Whenever the Commission finds that any rate, fare, charge, classification, tariff, regulation, or practice demanded, charged, collected, or observed by any carrier subject to the provisions of this Act is unjust or unreasonable, it may determine, prescribe, and order enforced a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge, or a just and reasonable classification, tariff, regulation, or practice: *Provided*, That the minimum-rate provision of this section shall not apply to common carriers on the Great Lakes.

"SEC. 5. The provisions of this Act are extended and shall apply to every common carrier by water in interstate commerce, as defined in section 1 of the Shipping Act, 1916."

(b) Section 4 of such Act is amended by striking out the term "SEC. 4" and inserting in lieu thereof the term "SEC. 6".

(c) Section 5 of such Act is amended to read as follows:

"SEC. 7. The provisions of the Shipping Act, 1916, as amended, shall in all respects, except as amended by this Act, continue to be applicable to every carrier subject to the provisions of this Act."

(d) Section 6 of such Act is amended by striking out the term "SEC. 6" and inserting in lieu thereof the term "SEC. 8".

(e) The amendments made by subsections (a), (b), (c), and (d) of this section shall take effect ninety days after the date of the enactment of this Act.

SEC. 44. Title II of the Merchant Marine Act, 1936, is amended by adding at the end thereof a new section to read as follows:

"SEC. 216. (a) The Commission is hereby authorized and directed, after consultation with all interests concerned, to prepare and report to the Congress on or before January 20, 1939, a comprehensive system for the training of citizens of the United States to serve as licensed and unlicensed personnel on American merchant vessels, and may employ as instructors, on a contract or fee basis, such qualified licensed and unlicensed personnel of the merchant marine as the Commission may deem necessary to effectuate the purposes of this section.

"(b) The Commission is hereby authorized and directed, under such rules and regulations as it may prescribe, to establish the United States Maritime Service to be a voluntary organization and which shall consist of such licensed and unlicensed personnel of the United States merchant marine as may be enrolled under the provisions of this section. The ranks, grades, and ratings for the personnel of the said Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard. The Commission is authorized and directed to determine the number of persons to be enrolled in the said Service, to fix the rates of pay of such persons, and to prescribe such courses and periods of training as, in its discretion, is necessary to maintain a trained and efficient merchant-marine personnel.

"(c) The Commission, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section."

SEC. 45. The Merchant Marine Act, 1936, is amended by adding at the end thereof a new title to read as follows:

"TITLE X

"SEC. 1001. It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of water-borne commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and the prompt and orderly settlement of all disputes concerning rates of pay, hours of employment, rules, or working conditions, including disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, hours of employment, rules, or working conditions.

"NATIONAL LABOR RELATIONS BOARD

"SEC. 1002. The provisions of this title shall not in any manner affect or be construed to limit the provisions of the National Labor Relations Act, nor shall any of the unfair labor practices listed therein be considered a dispute for the purposes of this title. Ques-

47 Stat. 1427.

Application of provisions of Shipping Act of 1916.

Textual correction.  
47 Stat. 1427.

Effective date.

49 Stat. 1991.

Report to Congress of comprehensive system for training of citizens to serve on American merchant vessels.

Instructors.

United States Maritime Service, establishment.

Composition, ranks, etc.

Number of enrollees, pay, etc.

Cooperation by Government agencies with Commission.

49 Stat. 2017.

Title X.

Water-borne commerce.  
Declaration of policy.

National Labor Relations Board.  
49 Stat. 440.  
29 U. S. C. §§ 151-166.

*Proviso.*  
Enforcement of navigation laws.

tions concerning the representation of employees of a maritime employer shall be considered and determined by the National Labor Relations Board in accordance with the provisions of the National Labor Relations Act: *Provided, however,* That nothing in this title shall constitute a repeal or otherwise affect the enforcement of any of the navigation laws of the United States or any other laws relating to seamen.

Definitions.

#### "DEFINITIONS

"SEC. 1003. When used in this title—

"Water-borne commerce."

"(a) The term 'water-borne commerce' means commerce by water between any State, the District of Columbia, or any Territory or possession of the United States and any foreign country, or commerce by water on the high seas or the Great Lakes between any State, the District of Columbia, or any Territory or possession of the United States and any other State, Territory, or possession of the United States.

"Maritime employer,"  
44 Stat. 577.  
45 U. S. C. § 151.

"(b) The term 'maritime employer' means any person not included in the term 'carrier' in title I of the Railway Labor Act, approved May 20, 1926, as amended, who (1) is engaged in the transportation by water of passengers or property in water-borne commerce; (2) is engaged in towboat, barge, or lighterage service in connection with the transportation of passengers or property in water-borne commerce; (3) operates or manages or controls the operation or management of any wharf, pier, dock, or water space, for the accommodation of vessels engaged in the transportation of passengers or property in water-borne commerce; (4) is engaged in the business of loading or unloading vessels engaged in the transportation of passengers or property in water-borne commerce; or (5) operates any equipment or facility connected with the services set forth in clauses (1), (2), (3), and (4) hereof, which is necessary for the continuity of flow of passengers and property in such water-borne commerce.

"Employee."

"(c) The term 'employee' means any person who performs any work as an employee or subordinate official of any maritime employer, subject to its authority to supervise and direct the manner of rendition of service, when the duties assigned to or services rendered by such person directly or indirectly in any manner affect, relate to, or are concerned with the transportation of passengers or property in water-borne commerce, or the furnishing of equipment or facilities therefor, or services in connection therewith, as set forth in clauses (2), (3), (4), and (5) of subsection (b) of this section; it being intended that this title should apply not only to those persons whose work may be exclusively in connection with the movement by water of passengers and property in the interstate and foreign commerce of the United States but also to those persons whose work may have such a close relation to the movement of such interstate and foreign commerce that the provisions of this title are essential and appropriate to secure the freedom of that commerce from interference and interruption. The provisions of this title shall not apply to the master or members of the crew of any vessel not documented, registered, licensed, or enrolled under the laws of the United States.

Exceptions.

#### "DUTIES OF EMPLOYER AND EMPLOYEE

Duties of employer and employee.

"SEC. 1004. It shall be the duty of the Board to encourage all maritime employers, their officers and agents, and their employees or the duly selected representatives of such employees to exert every reasonable effort—

Agreements concerning rates of pay, hours of employment, etc.

"(1) to make and maintain written agreements concerning rates of pay, hours of employment, rules, and working conditions, which agreements shall provide, by means of adjustment boards or port

committees, for the final adjustment of disputes growing out of grievances or the application or interpretation of the terms of such agreements;

“(2) to settle all disputes, whether arising out of the interpretation or application of such agreements or otherwise, in order to avoid any interruptions to transportation of passengers or property in water-borne commerce.

“SEC. 1005. Within thirty days after the date of enactment of this title, every maritime employer shall file with the Maritime Labor Board a copy of each contract with any group of its employees in effect on such date, covering rates of pay, hours of employment, rules, and working conditions. When any new contract is executed or any change is made in an existing contract with any group of its employees covering rates of pay, hours of employment, rules, or working conditions, any maritime employer shall file a copy of such contract, or a statement setting forth such change, with the Maritime Labor Board within ten days after such new contract has been executed, or such change has been made. Any maritime employer who willfully fails to file any copy of a contract or statement as required by this section shall be subject to a fine of not more than \$100 for each offense.

“SEC. 1006. All matters relating to the making and maintaining of agreements, and all disputes, between a maritime employer or employers and its or their employees shall be considered and, if possible, adjusted with all expedition, in conference between representatives designated and authorized by the maritime employer or employers and by its or their employees, respectively. It shall be the duty of the designated representatives of maritime employers, within five days after the receipt of notice of a desire on the part of either party to confer in regard to such matters and disputes, to specify a time and place at which such conference shall be held, and the Board shall notify the representatives of the employees thereof. The place so specified shall be reasonably accessible to both parties; and the time so specified shall allow the designated conferees reasonable opportunity to reach such place of conference, but shall not exceed ten days from the receipt of such notice. Nothing in this title shall be construed to supersede the provisions of any agreement as to conferences in effect between the parties.

#### “MARITIME LABOR BOARD

“SEC. 1007. (a) There is hereby established as an independent agency in the executive branch of the Government a board to be known as the ‘Maritime Labor Board’ (hereinafter referred to as the ‘Board’) to be composed of three members appointed by the President, by and with the advice and consent of the Senate. The President shall name one of the members of the Board as Chairman. The terms of office of the members of the Board shall extend to the date of expiration of this title. Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board. Two of the members in office shall constitute a quorum for the transaction of the business of the Board. Each member of the Board shall receive a salary at the rate of \$10,000 per annum, together with necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, subject to the provisions of law applicable thereto, while away from the principal office of the Board on business required by this title. No person in the employment of, or who is pecuniarily or otherwise interested in, any organization of maritime employees or any maritime employer shall enter upon the duties of, or continue to be, a member of the Board. A member of the

Settlement of disputes.

Maritime employer to file copy of each contract with any employee group.

New contracts.

Penalty for failure to file.

Expediting making of agreements, settlement of disputes, etc.

Maritime Labor Board.

Establishment, as independent agency.

Composition, appointment, terms, etc.

Vacancies, quorum, salaries, and allowances.

Restriction on membership.

Removals.

Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office, or ineligibility, but for no other cause.

Principal, etc., of-  
fice.

Rules and regula-  
tions.

Seal.

Experts, and other  
personal services.

5 U. S. C. §§ 661-674;  
Supp. III, §§ 673, 673c.

Contingent ex-  
penses.

Printing and bind-  
ing.

Assignment of work,  
business, or functions.

"(b) The Board shall maintain its principal office in the District of Columbia, but it may meet at any other place whenever it deems it necessary to do so. The Board is hereby authorized to adopt all necessary rules and regulations to carry out the powers, duties, and functions vested in it by this title. The Board shall have a seal which shall be judicially noticed.

"(c) The Board may (1) appoint such experts and assistants to act in a confidential capacity and, subject to the provisions of the civil-service laws, appoint such other officers and employees, as are essential to the effective transaction of the work of the Board; (2) in accordance with the Classification Act of 1923, as amended, fix the salaries of such experts, assistants, officers, and employees; and (3) make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding, and including expenditures for salaries and compensation, necessary traveling expenses and expenses actually incurred for subsistence, and other necessary expenses of the Board) as may be necessary for the execution of the functions vested in the Board, and as may be provided for by the Congress from time to time. All expenditures of the Board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman or by any employee of the Board designated by the chairman for that purpose.

"(d) The Board is hereby authorized by its order to assign, or refer, any portion of its work, business, or functions to an individual member of the Board, or an employee or employees of the Board, to be designated by such order, for action thereon; and by its order at any time to amend, modify, supplement, or rescind any such assignment or reference. All such orders shall take effect forthwith and remain in effect until otherwise ordered by the Board. In conformity with and subject to the order or orders of the Board in the premises, any such individual member of the Board or employee designated shall have power and authority to act as to any of said work, business, or functions so assigned or referred to him for action by the Board.

#### "MEDIATION

Mediation.

"SEC. 1008. (a) It shall be the duty of the Board, upon request of either the duly selected representatives of a maritime employer or employers or its or their employees who are parties to the making of a labor agreement, to encourage and assist in the making of such agreement, or, upon the request of both parties at interest, to assist in the interpretation of the provisions of an agreement already in existence.

"(b) The parties to a dispute between an employee or a group of employees and a maritime employer or group of maritime employers, may request the Board to act as mediator in such disagreements. The Board may proffer its services in case any maritime labor dispute is found by it to exist at any time. When a request for mediation is granted by the Board, or when the Board on its own initiative proffers such mediation, the Board shall promptly put itself in communication with the parties to such dispute and shall use its best efforts by mediation to bring them to agreement.

#### "ARBITRATION

Arbitration.

"SEC. 1009. If the Board should be unable through mediation to bring the parties to a dispute to agreement in whole or in part, it shall, as its last required action, use its best efforts to secure the assent of both parties to arbitration of the matter or matters in dispute.



# “PERMANENT LABOR POLICY

“SEC. 1010. On or before March 1, 1940, the Board shall submit to the President and to Congress a comprehensive plan for the establishment of a permanent Federal policy for the amicable adjustment of all disputes between maritime employers and employees and for the stabilization of maritime labor relations. As far as may be, the Board shall seek to secure through its mediatory efforts agreement between maritime employers and employees upon the plan it is hereby required to submit.

Permanent labor policy.

Submission of plan for establishment to President and Congress.

# “AUTHORIZATION

“SEC. 1011. There is hereby authorized to be appropriated such sums as may be necessary for expenditure by the Board in carrying out the provisions of this title.

Appropriations authorized.  
*Post*, p. 1117.

“SEC. 1012. This title shall expire at the end of three years from the date of its enactment.”

Duration of title.

SEC. 46. The Merchant Marine Act, 1936, is amended by adding at the end thereof a new title to read as follows:

49 Stat. 2017.  
46 U. S. C., Supp. III, ch. 27.

# “TITLE XI—FEDERAL SHIP MORTGAGE INSURANCE

“SEC. 1101. As used in this title—

Title XI—Federal Ship Mortgage Insurance.

“(a) The term ‘mortgage’ means a preferred mortgage as defined in the Ship Mortgage Act, 1920, as amended;

Definitions.  
“Mortgage.”  
41 Stat. 1000.  
46 U. S. C. § 911; Supp. III, § 922.  
“Vessels.”

“(b) The term ‘vessels’ includes all types of passenger, cargo, and combination passenger-cargo carrying vessels, tugs, towboats, barges, and dredges documented under the laws of the United States, and fishing vessels owned by citizens of the United States;

“(c) The term ‘mortgagee’ includes the original lender under a mortgage and his successors and assigns approved by the Commission;

“Mortgagee.”

“(d) The term ‘mortgagor’ includes the original borrower under a mortgage and his successors and assigns approved by the Commission; and

“Mortgagor.”

“(e) The term ‘maturity date’ means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

“Maturity date.”

“SEC. 1102. There is hereby created a Federal ship mortgage insurance fund (hereinafter referred to as the ‘fund’) which shall be used by the Commission as a revolving fund for the purpose of carrying out the provisions of this title, and there shall be allocated to such fund the sum of \$1,000,000 out of funds made available to the Commission under the appropriation authorized by section 1109. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of the fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States. The Commission may, with the approval of the Secretary of the Treasury, purchase debentures issued under the provisions of section 1105. Such purchases shall be made at a price which, on a yield basis, would provide an investment yield of not less than the yield obtainable from other investments (having comparable maturity dates) authorized by this section. Debentures so purchased shall be canceled and not reissued.

Federal ship mortgage insurance fund created.

*Post*, p. 1119.

Sum allocated.

*Post*, p. 973.

Purchase of debentures.

“SEC. 1103. The Commission is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to it which is eligible for insurance as hereinafter provided and, upon such terms as the Commission may prescribe, to make commitments for the insuring of any such mortgage prior to the date of execution or disbursement thereon. The aggregate amount of prin-

Insurance of mortgages.

Maximum out-  
standing principal ob-  
ligations.

Eligibility require-  
ments.

*Post*, p. 972.

principal obligations of all mortgages insured under this title and outstanding at any one time shall not exceed \$200,000,000.

"SEC. 1104. (a) To be eligible for insurance under this title a mortgage shall, excepting as otherwise provided in section 1106—

"(1) have a mortgagee approved by the Commission as responsible and able to service the mortgage properly; and a mortgagor approved by the Commission as possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the mortgaged property;

"(2) involve an obligation in a principal amount which does not exceed 75 per centum of the cost (as estimated by the Commission) of the construction, reconstruction, or reconditioning financed by the loan or advance, but in no event to exceed 75 per centum of the amount which the Commission estimates will be the value of the property when the construction, reconstruction, or reconditioning is completed;

"(3) secure an obligation having a maturity date satisfactory to the Commission but not to exceed twenty years from the date of its execution;

"(4) contain amortization provisions satisfactory to the Commission requiring periodic payments by the mortgagor;

"(5) secure an obligation bearing interest (exclusive of premium charges for insurance) at a rate not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time or not to exceed 6 per centum per annum if the Commission finds that in certain areas or under special circumstances the mortgage market demands it;

"(6) provide, in a manner satisfactory to the Commission, for the application of the mortgagor's periodic payments to amortization of the principal of the mortgage, exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided;

"(7) contain such terms and provisions with respect to the construction, reconstruction, reconditioning, maintenance, or operation of the property, repairs, alterations, payment of taxes, insurance, delinquency charges, revisions, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters pertinent to the security as the Commission may prescribe; and

"(8) secure a new loan or advance made to aid in financing the construction, reconstruction, or reconditioning, subsequent to the enactment of this title, of vessels owned by citizens of the United States which are designed principally for commercial use (a) in the coastwise or intercoastal trade; (b) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States; or (c) in foreign trade between the United States and foreign countries in continental North America, and between the United States and all islands lying between the continent of South America and the United States in the Gulf of Mexico, the Caribbean Sea, or the Atlantic Ocean.

"(b) No mortgage shall be accepted for insurance unless the Commission finds that the property or project with respect to which the mortgage is executed is economically sound.

"(c) The Commission is authorized to fix a premium charge for the insurance of mortgages under this title, but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. All such premium

Economic sound-  
ness of property, etc.

Premium charge for  
insurance.

charges shall be payable by the mortgagee as prescribed by the Commission. In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Commission is further authorized in its discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Commission determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date.

“(d) The Commission is authorized to charge and collect such amounts as it may deem reasonable for the investigation of applications for insurance, for the appraisal of properties offered for insurance, for the issuance of commitments, and for the inspection of such properties during construction, reconstruction, or reconditioning: *Provided*, That such charges shall not aggregate more than one-half of 1 per centum of the original principal amount of the mortgage to be insured. All moneys received under the provisions of this title shall be deposited in the fund.

Investigation of applications, etc.; charges.

*Proviso.*  
Limitation.

“SEC. 1105. (a) In any case in which the mortgagee under an insured mortgage shall have foreclosed and acquired title and possession of the mortgaged property in accordance with regulations of, and within a period to be determined by, the Commission, or shall, with the consent of the Commission, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Commission of title to the property which meets the requirements of rules and regulations of the Commission in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to the Commission of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Commission. Upon such conveyance and assignment the obligation of the mortgagee to pay the premium charges for insurance shall cease and the Commission shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value equal to the balance of the principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure. In the event that the mortgagee acquires the property other than by purchase at foreclosure sale after foreclosure proceedings have been instituted, debentures having a total face value equal to the balance of the principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings shall be issued to the mortgagee.

Benefits of insurance to mortgagee upon foreclosure.

Conditions.

Premium charges to cease.

Issue of debentures to mortgagee.

If property acquired other than by purchase at foreclosure sale.

Issuance of debentures.

“(b) Debentures issued under this section shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Commission with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed \$50, shall be adjusted by the payment of cash by the Commission to the mortgagee from the fund.

“(c) The debentures issued under this section shall be executed in the name of the fund as obligor, shall be signed by the Chairman of the Commission by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date

Execution, negotiability, date, interest, maturity, etc.

Tax exemption.	<p>foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default, and shall bear interest from such date at a rate determined by the Commission, with the approval of the Secretary of the Treasury, at the time the mortgage was offered for insurance, but not to exceed 3 per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature three years after the 1st day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued. They shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. They shall be paid out of the fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event that the fund fails to pay upon demand, when due, the principal of, or interest on, any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof, which is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.</p>
Payment.	<p>“(d) Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Commission shall have the right to complete, recondition, reconstruct, renovate, repair, maintain, operate, or charter, or sell for cash or credit, in its discretion, any properties conveyed to it in exchange for debentures as provided in this section; and notwithstanding any other provision of law, the Commission shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Commission as provided in this section.</p>
Procedure if fund fails to pay.	<p>“SEC. 1106. No provision of this title shall be construed to authorize the Commission to insure a mortgage securing any loan or advance made prior to the enactment of this title and no mortgage shall be insured for refinancing in whole or in part any existing mortgage indebtedness except—</p>
Authority of Commission in business transactions.	<p>“(1) where a substantial portion of the total amount to be secured by the new mortgage shall be applied to new construction, reconditioning, or reconstruction of one or more of the mortgaged vessels: <i>Provided, however,</i> That the aggregate amount of all mortgages insured under this paragraph and outstanding at any one time shall not exceed \$20,000,000, and provided that all of the eligibility requirements of section 1104 not inconsistent with this paragraph are complied with;</p>
Retroactive provisions.	<p>“(2) where the Commission has insured a mortgage under the provisions of this title, and the mortgagor thereafter makes application to the mortgagee or another lender for an additional loan or advance for reconditioning or reconstructing the mortgaged property, the Commission may insure a new mortgage in the amount of the principal outstanding balance of the original mortgage plus the amount of the new loan, provided the total amount is within the limits of section 1104 and the new mortgage conforms to all other eligibility requirements thereof; and</p>
Where substantial portion of new mortgage is applied to new construction, improvements, etc. <i> proviso.</i> Limitation on aggregate amount.	<p>“(3) the Commission may insure mortgages given to finance the purchase of vessels theretofore acquired by the fund under the provisions of section 1105 and to secure loans or advances made for reconditioning and reconstruction of such vessels.</p>
Additional reconditioning, etc., loans.	
Insurance of mortgages to finance purchases, etc.	

"SEC. 1107. Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Commission for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by the said Commission, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the said Commission under this title, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be guilty of a misdemeanor and punished as provided under section 806 (b) of this Act.

Misrepresentations.

"SEC. 1108. The Commission is authorized and directed to make such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this title.

Penalty provision.

49 Stat. 2014.

Rules and regulations.

"SEC. 1109. There is hereby authorized to be appropriated the sum of \$1,000,000 and such further sums as may be necessary to carry out the provisions of this title."

Appropriations authorized.

Post, p. 1119.

Approved, June 23, 1938.

## [CHAPTER 601]

## AN ACT

To create a Civil Aeronautics Authority, and to promote the development and safety and to provide for the regulation of civil aeronautics.

June 23, 1938  
[S. 3845]

[Public, No. 706]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Civil Aeronautics Act of 1938":*

Civil Aeronautics Act of 1938.

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